

IMPOUNDED

Impounded Case
SJC-13072

The issues in this case involve the following:

1. After judicial certification of reasonable efforts at the emergency custody hearing pursuant G. L. c. 119, § 24, and the so-called "72-hour hearing" pursuant to G. L. c. 119, § 24, is the trial court judge required to determine whether the department has continued to engage in reasonable efforts at any time prior the statutorily mandated annual review pursuant to G. L. c. 119, § 29C, upon the motion of a parent or child?
2. If the answer to question one is in the negative, does the trial court judge have the discretion to make such a determination upon the motion of a parent or child? If so, what is the burden of the parent or child in raising the issue and how is a judge's discretion to be guided in determining whether to make such a determination?
3. If the answer to either question one or question two is in the affirmative, does the department bear the burden of proving that it continues to engage in reasonable efforts in response to the motion of the parent or child?
4. If the answers to questions one and two are in the negative, may the parent or child raise the issue of the department's failure to engage in reasonable efforts at reunification in the context of a so-called "motion for abuse of discretion"? Adoption of West, 97 Mass. App. Ct. 238, 243 (2020). If so, what is the allocation of burdens?